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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,046	12/09/2003	Harry Stienwand	STIENW0301	6713
24507	7590	06/02/2006	EXAMINER	
MICHAEL BLAINE BROOKS, P.C.			A, PHI DIEU TRAN	
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SIMI VALLEY, CA 93062-1630			PAPER NUMBER	
			3637	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/731,046

Applicant(s)

HARRY STIENWAND

Examiner

Phi D. A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10 and 12-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10, 12-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 10, 12, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downey (912368) in view of Koppenberg (4523413).

Downey shows a columbarium apparatus comprising at least one niche defined by a columbarium structure and having an open end, an inside door (23) configured to cover the open end of the niche and attached to the columbarium, an outside door (28) configured to cover the inside door and attached to the columbarium structure, an inner face of the outside door is supported by an outer face of the inside door, the outside door attached to the columbarium structure by a second set of tamper resistant hardware (27), a ledge (formed by part 25) extending from the structure and oriented such that a lower edge of the outside door is supported by the ledge, the outside door being made from stone (marble), the structure defining a plurality of niches, each niche defining by top, bottom, right side, left side, rear walls and having an open end, a horizontal ledge (formed by part 25) extending from the structure in proximity to the bottom wall of at least one niche.

Downey does not show the inside door attached to the columbarium by a first set of tamper resistant hardware, the first set of tamper proof hardware is concealed by the outside door when the outside door is installed.

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Koppenberg discloses a first set of tamper resistant hardware (22) to attach an inner structure (12) to a mausoleum vaults or niches, and a second set of tamper resistant hardware (60) to attach an outer door to the vaults.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Downey's structure to show the inside door attached to the columbarium by a first set of tamper resistant hardware as taught by Koppenberg because the hardware would further enhance the securement of the door to the columbarium wall.

Downey as modified shows the first set of hardware being concealed by the outside door when the outside door is installed.

Per claims 10, 19 Downey as modified shows the first set of tamper proof hardware requiring a first tool for removal, the second set of tamper proof hardware requiring a different second tool for removal (inherently so as the heads 60 is different from that of part 22).

3. Claims 3, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downey (912368) in view of Koppenberg (4523413) as applied to claim 1 or claim 12 above and further in view of Darby (6250025)

Downey as modified shows all the claimed limitations except for the outside door is attached to the structure by attachment to a vertical strip portion of the structure.

Darby shows the outside door is attached to the structure by attachment to a vertical strip portion of the structure.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Downey's modified structure to show the outside door is attached to the structure by attachment to a vertical strip portion of the structure because the vertical strips

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portion of the structure would provide good supporting strength for the weight of the door as taught by Darby.

4. Claims 5-6, 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downey (912368) in view of Koppenberg (4523413) as applied to claim 1 or 12 above and further in view of Snow(5740637)

Downey as modified shows all the claimed limitations except for a resilient material between the inside and outside doors and in contact with the inner face of the outside door and the outer face of the inside door.

Snow show an O-ring between the inside substrate and the outside door to tightly seal the outside door against the inside substrate.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Downey's modified structure to show a resilient material between the inside and outside doors and in contact with the inner face of the outside door and the outer face of the inside door because having an O-ring between the outside door and its inner attaching structure would tightly seal the door against the inside substrate as taught by Snow, and having the O-ring being resilient would have been obvious to one having ordinary skill in the art as a resilient O-ring would provide tight sealing property for the sealing member.

Per claims 6, 17 Downey as modified shows all the claimed limitations except for the resilient material being silicone compound.

Downey as modified shows all the claimed limitations except for the material being silicone compound.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Downey's modified structure to show the material being silicone compound because it would have been an obvious matter of engineering design choice to have silicone being the resilient compound as silicone compound provides resiliency to a structure, and applicant also has not shown that the silicone compound solves any particular problem and that the selection of silicone would have been an obvious matter of engineering design choice as disclosed in applicant's specification page 7 line 15 ( silicone compound or like resilient material".

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Downey (912368) in view of Koppenberg (4523413) as applied to claim 1 above and further in view of Nelson et al (4685402)

Downey as modified shows all the claimed limitations except for the inside door being made from aluminum.

Nelson et al shows an interior surface (43)of the door (17) being made of aluminum to enable the door to function as an infrared barrier and moisture barrier to provide for a good fire resistive covering.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Downey's structure to show the inside door being made from aluminum because having an aluminum layer would provide the material located in the interior from fire as taught by Nelson et al.

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6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Downey (912368) in view of Koppenberg (4523413) as applied to claim 12 above and further in view of Nelson et al (4685402)

Downey as modified shows all the claimed limitations except for the inside door being made from aluminum.

Nelson et al shows an interior surface (43) of the door (17) being made of aluminum to enable the door to function as an infrared barrier and moisture barrier to provide for a good fire resistive covering.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Downey's structure to show the inside door being made from aluminum because having an aluminum layer would provide the material located in the interior from fire as taught by Nelson et al.

7. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Downey (912368) in view of Koppenberg (4523413) as applied to claim 12 above and further in view of Darby (6250025)

Downey as modified shows all the claimed limitations except for the structure being substantially aluminum and the hardware comprising stainless steel.

Darby shows a structure being substantially aluminum (the extrusion pieces) and steels forming bolts.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Downey's structure to show the structure being substantially aluminum and the hardware comprising stainless steel because having aluminum forming the structure would

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form a strong and sturdy structure and having bolts made of stainless steel would have been an obvious matter of engineering design choice as steel, and stainless steel are well known material for forming fasteners.

8. Claims 4, 15, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downey (912368) in view of Koppenberg (4523413), as applied to claim 1, or 12 above, and further in view of Pangburn et al (3754805).

Downey as modified shows all the claimed limitations except for a channel member adjacent to one side of the niche defining a recess oriented to accommodate an edge of the outside door.

Pangburn et al shows a channel member (62) adjacent to one side of the niche defining a recess oriented to accommodate an edge of the outside door.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Downey's modified structure to show a channel member adjacent to one side of the niche defining a recess oriented to accommodate an edge of the outside door because it allows for the easy mounting of the outside door to the structure as taught by Pangburn et al.

### ***Response to Arguments***

9. Applicant's arguments filed 3/17/06 have been fully considered but they are not persuasive.

With respect to applicant's argument that Koppenberg does not disclose the hardware being tamper resistant, examiner respectfully disagrees. By nature, a fastening device which



locks parts together, is tamper resistant. Certainly, unless an operator has the right tool, it would be difficult to remove the device; thus the device is tamper resistant.

Koppenberg also increases the securement of the door of Downey because it adds an extra fastening device to the door which requires that an operator has access to the tools which fit both fastening device; the addition of Koppenberg thus increases the securement of the door of Downey. The argument is thus moot.

10. In response to applicant's argument that applicant's invention is to a security issue, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. the argument is thus moot.

11. with respect to applicant's argument to Snow, examiner respectfully points out that Snow teaches having a resilient member between a door and its attaching surface. The resilient member helps tightly seal the structure together. It is thus motivated to modify Downey's modified structure with Snow's teaching as it helps tightly seal the outside door onto the door's attaching structure. The combination is thus motivated and desired. The argument is thus moot.

12. In response to applicant's argument that the modification would not protect the outer door against a blow by a vandal or the like, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). The argument is thus moot.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phi Dieu Tran A



5/27/06

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